

CONTINUATION OF FIRST NOTICE OF COMMENT PERIOD

LSA Document #11-356

AMENDMENTS TO RULES CONCERNING SULFUR DIOXIDE

PURPOSE OF NOTICE

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 7](#) concerning sulfur dioxide (SO₂) emission limitations. The First Notice of Comment Period, published on June 29, 2011 (DIN: [20110629-IR-326110356FNA](#)), requested comments on sulfur dioxide emission limitations to support the new 2010 1-hour SO₂ National Ambient Air Quality Standard (NAAQS). That comment period has ended. However, IDEM has since limited the scope of this rulemaking. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

HISTORY

First Notice of Comment Period: June 29, 2011, Indiana Register (DIN: [20110629-IR-326110356FNA](#)).

CITATIONS AFFECTED: [326 IAC 7](#).

AUTHORITY: [IC 13-14-18](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

A First Notice of Comment Period was published in the Indiana Register on June 29, 2011 (DIN: [20110629-IR-326110356FNA](#)), concerning sulfur dioxide emission limitations and ambient monitoring to support the new 2010 1-hour SO₂ NAAQS. This Continuation of First Notice of Comment Period addresses additional information that has become available since the notice was published.

The United States Environmental Protection Agency (U.S. EPA) issued a revised primary NAAQS for SO₂ in the June 22, 2010, Federal Register published at 75 FR 35520. The largest sources of SO₂ emissions are from fossil fuel combustion at power plants and other industrial facilities. Smaller sources of SO₂ emissions include industrial processes, such as extracting metal from ore, and the burning of high sulfur fuels by locomotives, large ships, and nonroad equipment.

Final designations for nonattainment based on monitoring data through 2012 were made on August 5, 2013 (78 FR 47191). Townships designated as nonattainment in Indiana are as follows:

Marion County (Wayne, Center, Perry)
Morgan County (Clay, Washington)
Daviess County (Veale)
Pike County (Washington)
Vigo County (Fayette, Harrison)

U.S. EPA will determine designations for additional areas based on additional monitoring or modeling, or both, at a later date. However, areas that may be designated as nonattainment or unclassifiable based on modeling are no longer the subject of this rulemaking. In addition, IDEM is no longer proposing to revise the SO₂ ambient monitoring requirements at [326 IAC 7-3](#) in this rulemaking. U.S. EPA may establish alternative monitoring requirements for areas not addressed within the August 5, 2013, designations.

This rulemaking will revise or add emission limitations in [326 IAC 7](#) to address state implementation plan (SIP) development requirements for counties with townships designated as nonattainment for the 1-hour standard on August 5, 2013. Federal law does not detail the exact emission controls needed to address nonattainment counties, but emission limitations must demonstrate compliance with the 1-hour SO₂ NAAQS. IDEM will also amend the current emission limitations in [326 IAC 7](#) to address the numerous sources that are now closed.

Alternatives to Be Considered Within the Rulemaking

Alternative 1. Amend [326 IAC 7](#) and any other provision of Title 326 that may be affected by this rulemaking to address SIP requirements for nonattainment areas designated on August 5, 2013. Amend [326 IAC 7](#) to delete closed sources.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? Federal law does not detail the exact emission controls needed to address nonattainment counties. Emission control requirements proposed in this rulemaking will be based on federal guidance.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amend the rule as proposed in the First Notice of Comment Period on June 29, 2011, by

amending/adding emission limitations and monitoring requirements at [326 IAC 7](#). This is not the preferred approach as IDEM is proposing to narrow the scope of this rulemaking. At this time, U.S. EPA has only made designations for the counties/townships listed above.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? Yes.
- If it is a federal requirement, is it different from federal law? Federal law does not detail the exact emission controls needed to address nonattainment counties. Emission control requirements proposed in this rulemaking will be based on federal guidance. At this time U.S. EPA has not made designations for all counties in Indiana.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not amend [326 IAC 7](#).

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No, this alternative would not allow the state to amend [326 IAC 7](#) as needed to comply with federal law.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

The revised primary NAAQS for SO₂ published in the June 22, 2010, Federal Register (75 FR 35520) and the nonattainment designations published in the August 5, 2013, Federal Register (78 FR 47191).

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. At this time, IDEM does not know the fiscal impact of developing emission limitations to address the 1-hour SO₂ NAAQS for the areas designated nonattainment on August 5, 2013. As emission limitations are developed, IDEM will evaluate the fiscal impact of the proposed requirements. Affected sources may need to install additional air pollution control devices to meet the requirements proposed.

Potential Fiscal Impact of Alternative 2. The fiscal impact of the proposed rulemaking in the First Notice of Comment Period on June 29, 2011, would affect more sources than proposed in this notice and would have a greater fiscal impact than Alternative 1. However, it is not possible to quantify those impacts at this time.

Potential Fiscal Impact of Alternative 3. There is no fiscal impact associated with this alternative. IDEM is required by federal law to address the revised 1-hour SO₂ NAAQS. If the state does not impose requirements on affected sources, U.S. EPA will impose requirements, and there will still be a fiscal impact.

Small Business Assistance Information

IDEM established a compliance and technical assistance program (CTAP) under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/ctap

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Jessica Faust-Hamblin
IDEM Small Business Regulatory Coordinator
MC 60-04 IGCS W041
402 West Washington Street
Indianapolis, IN 46204-2251
(317) 232-8172 or (800) 988-7901
ctap@idem.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-5](#) is:

Eric P. Shields
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 234-3997
smallbizombudsman@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-5](#), specifically [IC 5-28-17-5\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

The Small Business Assistance Program Ombudsman is:

Brad Baughn
IDEM Small Business Assistance Program Ombudsman
MC 50-01 IGCN 1301

100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386 or (800) 451-6027
bbaughn@idem.in.gov

Public Participation and Work Group Information

At this time, no work group is planned for the rulemaking. If you feel that a work group or other informal discussion on the rule is appropriate, please contact Susan Bem, Rule Development Branch, Office of Legal Counsel at (317) 233-5697 or (800) 451-6027 (in Indiana).

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #11-356 1-Hour SO₂ Rule
Susan Bem
Rule Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
Indiana Government Center North
100 North Senate Avenue
Mail Code 61-49
Indianapolis, IN 46204-2251

- (2) By facsimile to (317) 233-5970. Please confirm the timely receipt of faxed comments by calling the Rule Development Branch at (317) 233-8903.

- (3) By electronic mail to sbem@idem.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the e-mail address indicated in this notice.**

- (4) Hand delivered to the receptionist on duty at the thirteenth floor reception desk, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Regardless of the delivery method used, in order to properly identify each comment with the rulemaking action it is intended to address, each comment document must clearly specify the LSA document number of the rulemaking.

COMMENT PERIOD DEADLINE

All comments must be postmarked, faxed, or time stamped not later than October 25, 2013. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this action may be obtained from Susan Bem, Rule Development Branch, Office of Legal Counsel (317) 233-5697 or (800) 451-6027 (in Indiana).

Nancy King, Chief
Rule Development Branch
Office of Legal Counsel

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An [html](#) version of this document.